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Date _____
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Clerk _____
Comm. Amdt. _____

Amendment No. 2 to SB3143

**Herron
Signature of Sponsor**

AMEND Senate Bill No. 3143

House Bill No. 2529*

by deleting all language following the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 55-10-205, is amended by adding the following language as a new subsection (c) and by renumbering the subsequent subsection accordingly:

(c)

(1) Any motor vehicle operator who knowingly ignores a clearly visible and adequate flood warning sign or barricade and drives into a road area that is actually flooded commits reckless driving. In addition to the penalties imposed pursuant to subsection (d), the court may order the operator to pay restitution to defray the taxpayer cost of any rescue efforts related to such violation.

(2) It is an affirmative defense to prosecution under this section, which must be proven by a preponderance of the evidence, that the operator's driving through the flood warning sign or barricade was necessitated by a bona fide emergency.

(3) The provisions of this subsection shall not apply to an emergency vehicle. "Emergency vehicle" means a vehicle of a governmental department or public service corporation when responding to any emergency, or any vehicle of a police or fire department, or any ambulance.

SECTION 2. Tennessee Code Annotated, Section 29-20-201, is amended by adding the following language as a new, appropriately designated subsection:

(d) Notwithstanding any provision of this chapter or any other law to the contrary, a governmental entity that places and properly maintains a clearly visible and adequate flood warning sign or barricade at a flooded road area shall be immune from suit for any injury resulting from a violation of § 55-10-205(c). Such immunity from suit shall be removed when the governmental entity's conduct amounts to willful, wanton, or gross negligence. It shall be deemed gross negligence if an authorized government employee signaled the motor vehicle operator that it was safe to drive past the sign or barricade and the operator or any passengers in the operator's motor vehicle were injured or killed in the flooded road area due to such employee's signaling the motor vehicle to drive past the sign or barricade.

SECTION 3. This act shall take effect July 1, 2008, the public welfare requiring it, and shall apply to all offenses committed on or after such date.